The Solicitors' Journal

VOL. LXXXIX Saturday, May 5, 1945 No. 18

CONTENTS

CURRENT TOPICS

The Budget

SENSATIONAL is clearly not the word to describe the sort of marking time which is apparent in the Financial Statement presented to the Commons by the Chancellor of the Exchequer on 24th April. Astronomical figures, such as £27,400,000,000 for total expenditure on all services, war and civil, during the five and a half years of war, no longer stir the pulse of apprehension, at least of the non-expert, to whom it is some consolation to know that no less than 49 per cent. of this was met out of current revenue. The remainder was raised by borrowing ; 22 per cent. through small savings ; 33 per cent. by the sale of war loan ; 31 per cent. by floating debt in the hands of the market ; 6 per cent. from various budgetary funds and 8 per cent. from miscellaneous sources. Of major concessions to the general feeling that the war with Germany is all but over there are none, apart from any promises that the sanguine may feel they can extract from the statement that before the year is out another Budget may be necessary. On minor but by no means unimportant matters, the concession freeing from customs duty imported hydro-carbon oils used as raw materials for chemical synthesis will encourage research into the new industrial potentialities of this substance ; the new arrangement as to duty on certain motor vehicles will assist the motor industry ; and the widening of the scope of excess profits relief for small businesses will assist industry generally. The announcement that after discussions with the Government of the U.S.A. a Double Taxation Treaty has been agreed between the two countries to provide relief from double taxation in respect of income coming under charge to tax, both in the U.S.A. and in the United Kingdom, was rightly received with approval by the House. As regards trading profits generally, the treaty adopts the system, in force in the U.S.A. for its own concerns, of crediting the foreign tax against the home tax. The treaty also contains important provisions concerning dividends, interest, royalties, rents and income from employment. As to future alleviations of the heavier war-time burdens of taxation, the Chancellor said that material relaxations will not be impracticable " if we build a world in which we can avoid continued expenditure on defence on a vast scale, and in which employment is maintained and efficiency progressively increased."

Metropolitan Police Magistrates

LAST week we referred to the terms of s. 3 of the Metropolitan Police Courts Act, 1839, which lays down the qualification for appointment as a metropolitan police magistrate as seven years' practice at the Bar immediately preceding the appointment, and we expressed the view that, while that provision should be strictly applied, it should be altered so far as concerns candidates for appointment who have recently returned or are about to return from war service. The matter of certain recent appointments to the metropolitan stipendiary bench was raised in two questions to the Home Secretary by Dr. RUSSELL THOMAS and Lieut.-Colonel MARLOWE on 26th April. Mr. MORRISON'S reply seemed to suggest that temporary employment as a civil servant which in its terms did not debar a barrister from private practice could not be regarded as excluding a person from the statutory qualification, so long as such person's name was kept on the door of chambers and he kept up contributions to the clerk's salary. So, Mr. MORRISON said, he was advised, and, as *omnia rite esse acta praesumuntur*, it would be assumed that he took the highest advice, except for his statement that the advice " was given to me by the previous Attorney-General in another kind of administration altogether " (whatever that may mean). There will be, one may safely predict, a very serious difference of opinion at the Bar on this important matter. Whether a person is practising is a question of fact and not of law, and a mere technical or nominal practice looks suspiciously like a legal fiction to evade the clear terms of a statute. Whole-time employment as a servant, whether of an individual or a Government Department, usually prevents effective practice at the Bar, however liberal the terms of that employment may be. Solicitors soon know whether a person is " in chambers " and in regular attendance there, or merely " has his name up," and in doubtful cases they are rightly suspicious of divided loyalties. We reiterate that it is a matter of vital public importance that the statutory rule be observed, and that if a necessary exception be made in favour of barristers returning from the forces, then the statutory rule should be further underlined by creating this statutory exception.

Solicitors' Personal Undertakings

THERE is no need to emphasise to practising solicitors that their personal undertakings as officers of the court must be honoured, no matter what hardship may accrue. Real hardships sometimes do result, however, as was shown by a case in the Divorce Court on 26th April, in which HENN COLLINS, J., considered a summons taken out by the Official Solicitor to enforce an undertaking given by solicitors for the petitioner in a divorce suit based on the cruelty of the respondent. The Official Receiver had been appointed guardian *ad litem*. It was stated on his behalf that he only did that in the case of people other than poor persons, when

an undertaking had been given him by the solicitors that they would pay his costs. It was submitted that, apart from any view of the judge that there might be hardship, the court would order a solicitor to honour such an undertaking because it was a solicitor's undertaking apart from the way the decision went. It was argued that if a solicitor, as an officer of the court, chose to give an undertaking to pay a certain sum, the court would see that he paid it. The Official Solicitor, in the present case, had put his charge at fifteen guineas, a lower figure than any scale provided and less than his usual charge, and in the end the solicitor had sent his cheque for fifteen guineas, but in doing so he left the costs of his summons pending. Counsel for the Official Solicitor said, that in applying for an order for the costs of this summons, he did not wish it to be thought that he was vindictive, but he had to assert a rule of proper practice. Henn Collins, J., said he gathered that Counsel's action was vindicative and not vindictive. Counsel explained that Hodson, J., on 10th July last, at Birmingham Assizes, granted a decree *nisi* in this suit, but thought it a hardship that the petitioner should pay the costs. He contended that no such expression affected an undertaking by a solicitor that he would pay the Official Solicitor's costs. The sum of fifteen guineas was the least the Official Solicitor had ever agreed to accept and the solicitor was informed that if payment was not made the Official Solicitor would be compelled to institute proceedings by way of summons in the Divorce Court to enforce payment under the solicitors' undertakings, and a summons was taken out. The solicitor answered that he had only just located his client who had gone away and his counsel had expressed the view that he was not liable. However, he enclosed a cheque. The Official Solicitor replied that the undertaking was a personal undertaking and had nothing to do with the client and it was needful to establish that was so. Counsel added that it was an undertaking by an officer of the court, and he asked that the undertaking be enforced; no answer had been suggested. Henn Collins, J., ordered the solicitor to pay the costs of the summons.

Statutory Orders (Special Procedure) Bill

THE Statutory Orders (Special Procedure) Bill, presented to Parliament on 10th April, gives effect to the Prime Minister's announcement on 20th June of the Government's intention to propose a new procedure for the review by Parliament of matters which at present are normally dealt with by Provisional Orders or Private Bills. The Schedule contains a simple procedure for public notice, by advertisement, of the proposal to make an order, and for the consideration of objections, the holding of local inquiries, etc. The main provisions setting out the new Parliamentary procedure are broadly as follows: An order to which the Bill applies is to lie on the table of each House, and petitions against it may be presented within fourteen days. If within fourteen days after the Chairmen's report on petitions either House resolves that the order be annulled, the order falls to the ground (as under existing procedure), but without prejudice to the making of another order. A resolution to annul may be moved whether or not there are any petitions against the order. If, on the other hand, no resolution to annul is carried within the fourteen days' period and there are no petitions, the order becomes operative at the end of the period or at such later date as the order itself may fix. Thus, when the House is sitting, the period within which an order can become effective will be twenty-eight days plus the time taken by the Chairmen to make their report. The procedure laid down in the Bill is to apply to any order made under a future Act and described in that Act as being "subject to special Parliamentary procedure." Thus, it will be for Parliament to determine when a Bill comes before it in future whether a particular type of order for which the Bill provides should be dealt with under the new procedure. As regards existing Acts of Parliament, the Bill is to apply to any order made or confirmed under the Town and Country Planning Act of last session, where the order is described in that Act as being a provisional order and requiring confirmation by Parliament. It is the Government's intention to propose that the same procedure should apply in the case of the Water Bill, if that Bill becomes law before the Statutory Orders Bill. It is proposed to deal in the same way with the Local Government (Boundary Commission) Bill. The Bill also provides that after the expiration of five years, if an address is presented to His Majesty by both Houses of Parliament, an Order in Council may be made substituting the new procedure for provisional order procedure in the case of orders made under Acts of Parliament now on the statute book. It is proposed that the new procedure should come into force at the beginning of the next session of Parliament after the passing of the Act.

The Worshipful Company of Solicitors

NOT long ago the Master of the Worshipful Company of Solicitors of the City of London obtained the livery of the Company from the Lord Mayor and the Court of Aldermen. Help was available to this end from The Law Society and the civic authorities. There are now 132 on the Livery. There is no better way for solicitors to prove to the Lord Mayor and the Court of Aldermen their appreciation of the honour done to the Company, and incidentally to the profession, than to help to swell the ranks of the Company. One of the advantages of the incorporation of the Company as a City Livery Company is that it will tend to encourage social contacts among solicitors and help to bring about that sense of brotherhood in the profession which the Bar, through its opportunities for social contacts, pre-eminently enjoys. Another advantage is that the Court of Assistants have constantly under their notice the problems of solicitors practising in the City, which differ in some respects from those of the profession generally. It is of interest also to recall that the Ancient Livery Companies of the City of London, most of which obtained their charters some centuries ago, had among their original and primary objects the protection of their members and the assistance of those of their brethren who were in need of help. The members of the Court of Assistants have made known their view that the Company should assist in every way possible those younger members of the profession who will be returning to civil life after a long period of war service and who, in a great many cases, will require a helping hand. There can be no doubt that the existence of this Company enhances the dignity of the profession and promotes its best interests in every possible way. It is a Company which should receive the fullest measure of support from the legal profession, whether that support be merely moral or whether it takes the more tangible form of applications for membership. The address of the Company is 52, Bishopsgate, London, E.C.2, and all requests for details of the Company's activities and forms of application for membership should be addressed to the Clerk.

Law Society's Refresher Courses

THE immense field of the legal studies covered by the new refresher courses which The Law Society has announced its readiness to start on 22nd May, is the first impression that one carries away from an examination of the details given in the April issue of the *Law Society's Gazette*. The subjects are all of the most practical character, and, of course, jurisprudence, Roman law, and public international law, do not figure on the list. One very practical subject on which a lecture might be included, is conflict of laws; solicitors frequently have to decide questions of jurisdiction. Mr. R. E. MEGARRY, M.A., LL.B., the Director of The Law Society's Refresher Courses, has brought together a team of lecturers and they will together provide a full course of forty-six lectures. Solicitors and articled clerks who have passed their Final Examination will be eligible to take the courses provided that in each case they have been engaged in some form of whole-time national service approved for this purpose by the Council. There will be two courses when general demobilisation starts —Course A, a whole-time day course, and Course B—a part-time evening course. The basis of the courses is to be

"The Modern Law Manual," which is being published by Butterworth & Co. (Publishers), Ltd., and Sweet & Maxwell, Ltd. This work deals with changes in the law since 1939 and only attempts to set out the earlier law, in so far as this is necessary in order to understand the changes. Mr. Megarry has prepared a selected book list for those who desire to follow a wider course of reading. The composition fee for the whole course is £10, but smaller fees are charged to persons desiring to take one or more sections. For those who will find the fees too much for them, it will be a relief to hear that grants under the Government's Further Education and Training Scheme may be made in suitable cases. Applications for grants should be made to the nearest Appointment Office within six months after the applicant's release from the Forces. An explanatory pamphlet on the scheme is to be published, and copies will be available on application to the Secretary of The Law Society, who will also provide entry forms for the courses, by post or on personal application.

Town and Country Planning (General Interim Development) Order, 1945

THE Town and Country Planning (General Interim Development) Order, 1945, which came into operation on 1st May, 1945, defines and regulates the powers of control over development to be exercised by local authorities during the period between the date of the coming into force of a resolution to prepare a planning scheme and the coming into operation of that scheme. This form of control has hitherto been exercised through an order made in 1933 under the Town and Country Planning Act, 1932. The Ministry of Town and Country Planning has announced that the new order is necessitated by the war and the changed outlook on planning which have now materially altered the requirements to be met in the exercise of planning control. The Town and Country Planning (Interim Development) Act of 1943 has given local authorities wider powers of interim development control, the practical application of which needs to be more precisely defined. The order defines the degree of control to be exercised by setting out five separate categories of development which, unless directions are issued to the contrary, are permitted. These categories include the restoration of war-damaged property, alterations to and maintenance of existing buildings, and certain specified categories of development carried out by statutory undertakers, mining undertakers and certain other authorities. In certain special circumstances, which are fully set out in the order, control may be exercised even in the case of development falling within one or more of the above-mentioned "permitted" categories. The period of operation of the order is limited to the date on which the Emergency Powers (Defence) Act, 1939, expires (i.e., the duration of the war). A circular (No. 13), which has been sent with the order to local authorities and joint planning committees, gives specific guidance on various points of administration arising out of the order, particularly in relation to war damage, minerals and some classes of development by statutory undertakers and local authorities. An explanatory memorandum for official use (price 2d. net, H.M. Stationery Office) contains a general description and explanation of the structure and form of the order (Pt. I) and detailed notes on each clause (Pt. II).

Recent Decision

In *Vaughan* v. *Shaw*, the Court of Appeal (MACKINNON, LAWRENCE and MORTON, L.JJ.), on 25th April (*The Times*, 26th April), held that the material figure to consider in fixing the standard rent of a dwelling-house under the Rent Restriction Act, 1939, was the rent at which it was first let as a whole after 1st September, 1939, and not the sum of the rents of two parts of the house, each let separately.

RECOGNITION OF CHANGES OF NATIONALITY

(CONTRIBUTED)

(*Continued from p.* 195)

It is submitted that persons denationalised by these laws and decrees are, for all intents and purposes, deprived of their nationality and are not in a privileged position as to their re-naturalisation. The provisions of the German nationality Law of 1913, which granted a legal right to naturalisation and readmission to German nationality in certain cases—which had been decisive in *Liebmann's* and *Weber's* cases—have been repealed by a German Law of 15th May, 1935. (cf. H. J. Feist in 186 *Law Times*, 143). Furthermore the special position of the Jews in National-Socialist Germany has to be taken into account. Seen in the light of National-Socialist legislation and policy, the decree of 1941 merely constitutes a further step towards the goal of the entire outlawing of Jewish German nationals. (For the following, cf. "The Undermining of the Nationality Concept by German Law," by P. Weis, Royal Institute of International Affairs, 1943.) According to the views at present prevailing in Germany, German law must be interpreted in accordance with the National-Socialist doctrine. According to art. 4 of the Nazi party programme, "none but members of the nation may be citizens of the State." Jews cannot, therefore, be citizens of the State. According to art. 5, "anyone who is not a citizen of the State may live in Germany only as a guest and must be regarded as being subject to the *Laws of Aliens*" (my italics).

Starting with the Nuremberg laws, Germany proceeded to embody this doctrine gradually into her legal system. Germany resorted to depriving the Jews of their property and economic existence, to their deportation, and, finally, to extermination; this was accompanied in the field of law by the withdrawal of all political and civil rights. The final stage, the *capitis deminutio maxima* of the Jews, was reached in 1943. The decree of 1941 was merely another milestone on this road, enacting in law what had already been the position in fact.

German Jews have, since 1938, been deprived of what are regarded to be the two essential elements of nationality according to its conception in international law: protection and right of sojourn. German and Austrian Jewish refugees to whom the "Convention Concerning the Status of Refugees Coming from Germany" of 1938 applies are, *per definitionem*, persons "who are proved not to enjoy, in law or in fact, the protection of the German government." As to the right of sojourn, it is notorious that Germany has resorted to the expulsion of the Jews, thus denying them the right to reside on her territory, and that she refuses to readmit them. The decree of 1941, which deprived Jews living abroad formally of their nationality, bears, in this sense, only a declaratory character.

It should not be forgotten that the applicants were merely transients who never resided lawfully in this country. Their detention in this country does not create such residence. While, according to well-established practice, free and—with the one exception of an application for a writ of *habeas corpus*—interned enemy aliens, who reside here lawfully, "*per licentiam* and *sub protectione domini regis*," have procedural capacity in the courts of this country, the position of non-resident alien enemies is questionable. This should not be overlooked when the implications of the decision with regard to resident aliens in this country, who are in the same position as the applicants as to their national status, are considered (*Wells* v. *Williams* (1697), 1 Lord Raym. 282; *Porter* v. *Freudenberg* [1915] 1 K.B. 870; *Schaffenius* v. *Goldberg* [1916] 1 K.B. 284).

In considering the implications of the decision it appears, in my opinion, necessary to distinguish two different rules.

And a third may be added which seems to emerge from the earlier cases, from statute and from international custom and conventions.

(1) According to international law the question whether a person is a subject of a particular State has to be decided by the municipal law of that State.

In *Stoeck* v. *Public Trustee* [1921] 2 Ch. 67, where the nationality of the plaintiff was decisive for the question whether his property was subject to charge, and where the decisions in *Weber's* and *Liebmann's* cases were distinguished, Lord Russell upheld this rule. It was held that " in truth there is not and cannot be such a person as a German national according to English law, and there could be no justification for interpreting or expanding the words ' German national ' in the manner suggested " (at p. 82). Stoeck was held to be a stateless person.

In *Schwarzkopf's* case it was held by the American court " it would be a strange judgment for a U.S. court to find that the relator was a German citizen when the German government had at least on two occasions repudiated the relation. Each country determines for itself who are its nationals, subject to certain limitations on expansive claims to nationality imposed by international law."

It is in accordance with this rule that persons coming under the decree of 1941 have been described as " stateless " for the purpose of registration of patents by the Patent Office and for registration under the Companies Act by the Board of Trade. In a similar manner, a British woman who marries an alien to whom the decree applies does not, according to administrative practice (though this has not yet been made the subject of a judicial decision), lose her British nationality as she does not " acquire the nationality of her husband," her husband being stateless (s. 10, subs. (2), British Nationality and Status of Aliens Act, 1914 : 4 & 5 Geo. 5, c. 17). And a child born of parents who come under the decree, in a country which bases its nationality law on *jus sanguinis*, would, I submit, have to be considered as stateless.

(2) There is no rule of international law defining the class or classes of persons who are to be regarded as enemies by the other belligerent. This is left to municipal law. Since war is waged under the prerogative of the Crown, it is for the Crown to delimit these classes and to detain persons belonging to such class if it deems it expedient in the interest of warfare and of the safety of the realm. Once a person is detained as belonging to such class he cannot move for a writ of *habeas corpus*. But it appears to be the prevailing view that the question whether a person belongs to such class may be examined by the courts of this country on an application for a writ of *habeas corpus*. The courts seem to be inclined to give the term " alien enemy " within the scope of the Royal prerogative a wider meaning than would be its meaning by application of the first rule, viz., for reasons of public policy and the safety of the realm. But the latter consideration would appear to be of minor import in this war than it was in the last as the Home Secretary has now, beyond the powers granted to him under the Royal prerogative, statutory powers to detain British subjects and aliens alike under reg. 18B of the Defence Regulations, 1939, and, in addition, powers to detain aliens of any class under reg. 20A of the Defence Regulations (S.R. and O., 1939, Nos. 927 and 1681).

For this rule, too, the dictum of Lord Russell, in *Stoeck's* case is a good authority :—

" How could the municipal law of England determine that a person is a national of Germany ? It might determine that for the purposes of English municipal law a person shall be deemed to be a national of Germany, or shall be treated as if he were a national of Germany, but that would not constitute him a national of Germany if he were not such according to the municipal law of Germany " (at p. 82).

Similarly, for the purpose of the Aliens Order, 1939 (S.R. and O., 1920, No. 448, as amended, 1923, No. 326), " provided that where an alien acquired a nationality at birth he shall (unless the Secretary of State otherwise directs either generally or in the particular case) be deemed to retain that nationality unless he has subsequently acquired by naturalisation or otherwise some other nationality, and is still recognised by the Sovereign or State whose nationality he has acquired as entitled to protection " (art. 21 (1), para. 2).

According to this article aliens who acquired enemy nationality at birth and who have subsequently lost this nationality without acquiring another are deemed to be " enemy aliens " for the purpose of the Aliens Order.

This principle of " retention of nationality " still reflects the doctrine of permanent allegiance.

(3) In cases of doubtful or of double nationality, account has to be taken in determining the national status of the person concerned of all his relations to the State whose nationality is in question ; of the degree of his attachment to that State as it may be concluded from his conditions of life, from spiritual as well as from material circumstances, such as loyalty and interests on the one hand, residence on the other. This has been called the principle of active or effective nationality (cf. Oppenheim, *op. cit.*, I, p. 532).

This rule has been accepted as a rule of international law for the determination of the national status of persons of double nationality in a third State by the Convention on Certain Questions Relating to the Conflict of Nationality Laws concluded at the Hague in 1930 (art. 5) (Misc. No. 4, 1933, Cmd. 4347, Tr. Ser. No. 33 (1937), Cmd. 5553).

It can also be found in the Aliens Order : " For the purposes of this Order when an alien is recognised as a national by the law of more than one foreign State or where for any reason it is uncertain what nationality (if any) is to be ascribed to an alien, that alien may be treated as the national of the State with which he appears to be most closely connected for the time being in interest or sympathy or as being of uncertain nationality or of no nationality " (art. 21 (1), para. 1).

This rule is reflected in the fact that aliens who are deemed to be enemy aliens within the meaning of the Aliens Order and who could satisfy special tribunals set up for the purpose that they were *bona fide* refugees, have been exempted until further order from internment and from the special restrictions applicable to enemy aliens under the Aliens Order, 1920, as amended, as " refugees from Nazi oppression." A special class of " friendly enemies " has thus been created.

Whether a different result would have been arrived at by the court in the case discussed if the considerations underlying this rule would have been brought forward in favour of the applicants, i.e., the question what was their " effective " nationality, instead of the applicants' reliance on the single instance of the decree of 1941, must be open to conjecture.

(Concluded)

A CONVEYANCER'S DIARY

BEQUEST OF SELECTED CHATTELS

ONE fairly often finds in a will a provision in these terms : " I give to my wife absolutely free of duty such of my personal chattels (as defined in the Administration of Estates Act, 1925) as she may within one year of my death select." Such a form is provided in the precedent books ; see, for instance, " Prideaux," 23rd ed., vol. 3, p. 703. The learned editors add to the form a note saying, on the authority of a case in the Weekly Notes of 1928, that if the widow dies without having selected, within the year, her personal representatives cannot do so. But that is not, I think, the most striking point. The effect of such a gift is to entitle the widow to take the whole of the testator's personal chattels if she takes the trouble to notify the executors that she exercises the power to select them all. Clauses of this sort therefore tend to cause difficulty ; it is not so much where the power of selection is given to the widow, whom it would usually be difficult to attack with a

good grace even if she insists on taking the entirety. But where the person given the power of selection is a stranger in blood from the residuary legatee, the latter can very plausibly argue that if the testator had meant A to have all his personal chattels he would have said so, seeking to draw the inference that there is some control, whether of " reasonableness " or other consideration, to which the power of selection is made subject. Any such control would be very difficult to work out in practice, and in any event there is authority that it does not exist. It is true that *Kennedy* v. *Kennedy*, 10 Hare 438, tends the other way, but the modern authorities are overwhelming. Thus in *Arthur* v. *MacKinnon*, 11 Ch. D. 385, a testator bequeathed all his plate and plated articles to his trustees upon trust to permit his wife " to have and appropriate absolutely to herself such parts thereof as she should at any time before the expiration of twelve calendar months after (the testator's death) signify in writing her desire to possess." The widow sued for a declaration that she was entitled to the whole of the plate and plated articles. (Presumably she had duly signified her desire to have them all, but, curiously enough, we are not told so in the report.) The judgment of Jessel, M.R., was notably short : " I have no doubt as to the meaning of this will. Of course the widow takes the whole. Following the words literally she might take the whole of the plate with the exception of one article of probably no value, when the maxim *de minimis* would apply."

This decision was followed by the Court of Appeal in *Re Sharland* [1896] W.N. 662 ; 74 L.T. 664, but the matter was again raised in *Re Wavertree* [1933] Ch. 837. There the testator gave certain shares on trust for his adopted daughter Rosemary, and also bequeathed to her " such of the furniture and household effects which at the date of my death shall be in or about either of my residences Horsley Hall or Sussex Lodge as she may select for the purpose of furnishing a residence for my said adopted daughter." By a later clause the testator authorised his trustees to spend not exceeding £5,000 in buying a house as a residence for Rosemary. It seems to have been argued that having regard to the latter provision and to the words " for the purpose of furnishing a residence," the power of selection extended only to such of the chattels in question as were adequate to furnish the house which was to be bought. This argument did not prevail. Eve, J. (at pp. 841–2), said that there was no quantitative limit on the power : the phrase " for the purpose of furnishing a residence," . . . " whether it be explanatory of the motive underlying the bequest, or a reminder of the purpose for which the bequest is made, cannot operate to cut down the bequest. Moreover, it gives no indication of the sort of size of the house which is contemplated and only raises an uncertainty. Nor does the fact that the power of selection is from two houses of furniture for one house lead to the conclusion, either that the right to select is limited to one house, or that the power to select is to extend only to part of the chattels . . . In my opinion this part of the case is concluded by the authority of *Arthur* v. *MacKinnon*, approved and followed by the Court of Appeal in *Re Sharland*. The legatee, in my opinion, is absolutely entitled to the whole of the furniture and effects in both houses."

In view of the judgment of Eve, J., in *Re Wavertree*, a case where there were the makings of a context to control the power of selection, it is now clearly quite impossible in any ordinary case to argue that the power does not extend to the whole of the class of articles out of which the selection is to be made. Incidentally, it is to be noted that Eve, J., refused to put a restrictive construction on the words " furniture and household effects . . . in or about " the two houses. Thus he held that they covered a number of motor cars which were kept in garages at one or other of the houses, not to mention garden tools and implements and " movable plants," a curious phrase in the report which perhaps means motor-mowers and the like.

It follows from these cases that the advisers of a testator would be wise to point out to him that a gift to A of " all my personal chattels " differs from one of " all my personal chattels which A shall select " only in that it enables A not to become owner of any of the chattels which he does not want. Even so, he would be perfectly justified in selecting them all and immediately arranging to sell for his own account the ones which he does not want. He is under no obligation to let any enure for the benefit of the residuary legatees. Doubtless there will be a few cases where A fails to select at all, or fails to do so within a prescribed time limit : residue will then benefit. But such cases are few, while the risk in most cases is that bad feeling will be caused through A exercising his undoubted rights. That being so, the testator himself may well prefer to say in terms that A is to have all the personal chattels.

LANDLORD AND TENANT NOTEBOOK

THE RIDLEY REPORT

1—The Working of the Rent Restrictions Acts

The long-awaited Report of the Inter-Departmental Committee on Rent Control (appointed on 25th November, 1943) was, I think, worth waiting for. The result of the committee's deliberations, set forth in 163 paragraphs grouped under thirteen heads, with six appendices, make good reading. I am, of course, concerned only with so much of the review and of the recommendations as are of interest to the practitioner as such ; not, of course, with justice or expediency ; and I will discuss the report on these lines.

Under its terms of reference the committee had to review " the question of rent control, including the working of the Rent Restrictions Acts." I will deal first with some points which concern the Acts only. The first point of interest is, perhaps, a minor one : it is the somewhat bland statement in para. 11 that the 1939 Act applies to houses built since the passing of that Act as well as to houses then in existence. This follows a statement that the Act " brings within control all houses . . . the rateable value of which does not exceed, etc," ignoring the qualification " on the appropriate day " in s. 3 (1). The " Notebook " has previously commented on the difficulty of establishing that a house which was not part of any rateable hereditament on 1st or 6th April, 1939, falls within this provision (88 Sol. J. 167 ; 89 Sol. J. 138). It will, however, be agreed that it is desirable that the position be stated.

In the same paragraph the committee observes that the 1939 Act is to continue in force until six months after the end of the present emergency (see s. 1), and is perhaps to be commended for not recalling that the concluding subsection of the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915, s. 5 (2), ran " This Act shall continue in force during the continuance of the present war and for a period of six months thereafter and no longer . . . " and that the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, was designed as an Act to end Rent Acts by 1938, when, it was expected, the shortage of dwellings would have been remedied thanks to the operation of housing legislation. What happened was, of course, the Increase of Rent, etc., Act, 1938. The present committee recommends (para. 17) that legislation should be framed in the expectation that it may be necessary to continue control for ten years ; and it is not unexpected that the recommendation is made (para. 31) that the present chaos of overlapping statutes (nine Acts are wholly or partly in force) be replaced by a single comprehensive Act in which the whole law relating to rent control be clearly set out. At this stage mention may be made of a number of suggestions for improving the drafting of the Acts to be found under " Miscellaneous " in para. 140 : my criticism would be that a longer list might well have been submitted, e.g., there is nothing about the *prima facie* meaningless expression " convicted of using the premises

COUNTY COURT CALENDAR FOR MAY, 1945

Circuit 1—Northumberland
His Hon. Judge Richardson
Alnwick,
Berwick-on-Tweed, 9
Blyth,
Consett, 18
Gateshead, 15
Hexham, 8
Morpeth, 14
†*Newcastle-upon-Tyne, 10, 11 (J.S.), 15 (R.B.), 17 (B.)
North Shields, 24
Seaham Harbour, 28
South Shields, 23
Sunderland, 2, 9 (R.B.) 30

Circuit 2—Durham
His Hon. Judge Gamon
Barnard Castle,
Bishop Auckland, 29
Darlington, 9, 30
*Durham, 8 (J.S.), 28
Guisborough, 4
Leyburn, 14 (R.)
†*Middlesbrough, 3, 17 (J.S.)
Northallerton, 31
Richmond, 10
†*Stockton-on-Tees, 15
Thirsk, 17 (R.)
West Hartlepool, 16

Circuit 3—Cumberland
His Hon. Judge Allsebrook
Alston, 18
Appleby, 12 (R.)
†*Barrow-in-Furness, 2, 3
Brampton,
*Carlisle, 16
Cockermouth, 10
Haltwhistle, 1
*Kendal, 15
Keswick,
Kirkby Lonsdale, 8 (R.)
Millom, 8
Penrith, 17
Ulverston, 1
†*Whitehaven, 9
Wigton,
Windermere, 3 (R.)
*Workington,

Circuit 4—Lancashire
His Hon. Judge Peel, O.B.E., K.C.
Accrington, 17
†*Blackburn, 7, 14, 28 (J.S.), 30 (R.B.)
†*Blackpool 2, 3, 9, 11 (R.B.), 16 (J.S.)
Chorley, 31
Lancaster, 4
†*Preston, 1, 8, 17 (R.B.), 29 (J.S.)

Circuit 5—Lancashire
His Hon. Judge Harrison
†*Bolton, 2, 9 (J.S.), 30
Bury 7 (J.S.), 28
*Oldham, 3, 10, 31 (J.S.)
Rochdale, 11 (J.S.)
*Salford, 1 (J.S.), 8, 29

Circuit 6—Lancashire
His Hon. Judge Crosthwaite
His Hon. Judge Proctor
†*Liverpool, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 28, 29, 30, 31
St. Helens, 9, 30
Southport, 8, 29
Widnes, 11
*Wigan, 10, 31

Circuit 7—Cheshire
His Hon. Judge Burgis
Altrincham, 2 (J.S.), 30
*Birkenhead, 1, 2 (R.), 9, 16, 17, 23 (R.), 29
Chester, 8
*Crewe, 4
Market Drayton, 18
Nantwich, 11
*Northwich, 10
Runcorn, 15
*Warrington, 3, 31 (J.S.)

Circuit 8—Lancashire
His Hon. Judge Rhodes
Leigh, 4
†*Manchester, 1, 2, 3, 7, 8, 9, 10, 11 (B.)

Circuit 10-Lancashire
His Hon. Judge Raleigh Batt
*Ashton-under-Lyne, 4, 28 (B.)
*Burnley, 10, 11
Colne,
Congleton, 25
Hyde, 30
*Macclesfield, 10 (B.), 15
Nelson, 9
Rawtenstall, 16
Stalybridge, 17, 31 (J.S.)
*Stockport, 1, 2 (J.S.), 18 (B.), 29
Todmorden, 8

Circuit 12—Yorkshire
His Hon. Judge Neal
*Bradford, 10, 18, 23 (J.S.)
Dewsbury, 25
*Halifax, 17
*Huddersfield, 15, 16
Keighley, 8
Otley, 9
Skipton, 7
Wakefield, 15 (R.), 24

Circuit 13—Yorkshire
His Hon. Judge Essenhigh
*Barnsley, 9, 10, 11
Glossop, 16 (R.)
Pontefract, 28, 29, 30
Rotherham, 15, 16
*Sheffield, 1 (J.S.), 3, 4, 8 (J.S.), 11 (R.), 17, 18, 31

Circuit 14—Yorkshire
His Hon. Judge Stewart
His Hon. Judge Ormerod
Harrogate, 25 (R.)
Leeds, 2, 9, 16, 17 (J.S.) 30, 31 (J.S.)
Ripon, 1
Tadcaster, 8
York, 15

Circuit 16—Yorkshire
His Hon. Judge Griffith
Beverley, 11
Bridlington, 7
Goole, 22
Great Driffield, 28
†*Kingston upon Hull, 14 (R.), 15 (R.), 16, 17, 18 (J.S.), 28 (R.B.), 29 (R.)
Malton, 23
Scarborough, 8, 9, 15 (R.B.)
Selby, 4
Thorne, 24
Whitby, 9 (R.), 10

Circuit 17—Lincolnshire
His Hon. Judge Langman
Barton-on-Humber,
†*Boston, 3 (R.), 10, 17 (R.B.)
Brigg,
Caistor,
Gainsborough, 9 (R.), 14
Grantham, 11
†*Great Grimsby, 1, 2 (J.S.), 3 (R.B.), 16 (J.S.), 17 (*R. every Wednesday*)
Horncastle, 30
*Lincoln, 3 (R.), (R.B.),7
*Louth, 15
Market Rasen, 24
Scunthorpe, 14 (R.), 29
Skegness, 9
Sleaford, 15 (R.)
Spalding, 25
Spilsby, 4 (R.)

Circuit 18—Nottinghamshire
His Hon. Judge Caporn
Doncaster, 4, 29, 30, 31
East Retford, 29 (R.)
Mansfield, 7, 8
Newark, 3, 11 (R.)
*Nottingham, 3 (R.B.), 9, 10, 11 (J.S.), 16, 17, 18 (B.)
Worksop, 8 (R.), 15

Circuit 19-Derbyshire
His Hon. Judge Willes
Alfreton, 15
Ashbourne,
Bakewell, 8
Burton-on-Trent, 16 (R.B.)
Buxton, 14
Chesterfield, 11, 18
*Derby, 9, 30, 31 (J.S.)
Ilkeston, 1, 29
Long Eaton, 17
Matlock,
New Mills,
Wirksworth, 10

Circuit 20—Leicestershire
His Hon. Judge Field, K.C.
Ashby-de-la-Zouch, 17
*Bedford, 15 (R.B.), 30
Hinckley, 16
Kettering, 29
*Leicester, 7, 8, 9 (J.S.) (B.), 10 (B.), 11 (B.)
Loughborough, 15
Market Harborough, 14
Melton Mowbray,
Oakham, 18
Stamford, 28
Wellingborough, 31

Circuit 21—Warwickshire
His Hon. Judge Dale
His Hon. Judge Tucker (Add.)
*Birmingham, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15 (B.), 16

Circuit 22—Herefordshire
His Hon. Judge Roope Reeve, K.C.
Bromsgrove, 18
Bromyard,
Evesham, 23
Great Malvern, 7
Hay, 9
*Hereford, 15, 24
*Kidderminster, 8, 22
Kington, 16
Ledbury,
*Leominster, 14
Ross, 25
†*Stourbridge, 10, 11
Tenbury,
*Worcester, 17, 28

Circuit 23 — Northamptonshire
His Hon. Judge Forbes
Atherstone, 10
Banbury,
Bletchley, 29
Chipping Norton,
*Coventry, 7 (R.B.), 8, 28
Daventry, 9
Leighton Buzzard,
*Northampton, 1, 25 (R.B.), 29 (R.)
Nuneaton, 2
Rugby, 3, 10 (R.)
Shipston-on-Stour, 14
Stow-on-the-Wold,
Stratford-on-Avon, 17
Warwick, 11 (R.B.)

Circuit 24 — Monmouthshire
His Hon. Judge Thomas
Abergavenny,
Abertillery, 8
Bargoed, 9
Barry, 3
†*Cardiff, 1, 2, 4, 5
Chepstow,
Monmouth, 14
†*Newport, 17, 18
Pontypool and Blaenavon, 16, 25
*Tredegar, 10

Circuit 25—Staffordshire
His Hon. Judge Finnemore
*Dudley, 1, 15, 29
*Walsall, 3, 17, 24, 31
*West Bromwich, 9, 30
*Wolverhampton, 4, 11, 18, 25

Circuit 26—Staffordshire
His Hon. Judge Tucker
*Hanley, 10, 24
Leek, 14
Lichfield, 30
Newcastle - under - Lyme, 15
Redditch, 18
*Stafford, 4
*Stoke-on-Trent, 9
Stone, 28
Tamworth, 31
Uttoxeter, 25

Circuit 28-Shropshire
His Hon. Judge Samuel, K.C.
Brecon, 18
Bridgnorth, 16
Builth Wells, 10
Craven Arms, 9
Knighton, 8
Llandrindod Wells, 11
Llanfyllin,
Llanidloes,
Ludlow, 14
Machynlleth,
Madeley, 17
Newtown,
Oswestry, 15
Shrewsbury, 28, 31
*Wellington, 29
Welshpool,
Whitchurch, 30

Circuit 29—Caernarvonshire
His Hon. Judge Evans, K.C.
Bala,
†*Bangor, 7
Blaenau Festiniog, 15
*Caernarvon, 9
Colwyn Bay, 10
Conway,
Corwen,
Denbigh,
Dolgelley,
Flint,
Holyhead,
Holywell, 18
Llandudno,
Llangefni, 8
Llanrwst, 11 (R.)
Menai Bridge,
Mold, 25 (R.)
*Portmadoc, 14
Pwllheli, 11
Rhyl, 16
*Ruthin, 17
Wrexham, 23, 24

Circuit 30—Glamorganshire
His Hon. Judge Williams, K.C.
*Aberdare, 1
Bridgend, 28 (R.), 29, 30, 31
Caerphilly, 17 (R.)
Merthyr Tydfil, 3
*Mountain Ash, 2
Neath, 16, 17, 18
*Pontypridd, 8, 9, 10, 11
Port Talbot, 15
*Porth, 7
*Ystradyfodwg,

Circuit 31—Carmarthenshire
His Hon. Judge Morris, K.C.
Aberayron, 3
†*Aberystwyth, 18
Cardigan,
†*Carmarthen and Ammanford, 1, 2
†*Haverfordwest, 15
Lampeter,
Llandovery, 7
Llanelly, 24, 25
Narberth, 14
Newcastle Emlyn, 4
Pembroke Docks,
*Swansea, 8, 9, 10, 11

Circuit 32—Norfolk
His Hon. Judge Pugh
Beccles, 7
Diss, 1
Downham Market, 3
East Dereham,
Fakenham,
†*Great Yarmouth, 17, 18
Harleston,
Holt,
†*King's Lynn, 10, 11
*Lowestoft, 4
North Walsham,
*Norwich, 14, 15, 16
Swaffham, 2
Thetford, 8

Circuit 33—Essex
His Hon. Judge Hildesley, K.C.
Braintree, 4
*Bury St. Edmunds, 22
*Chelmsford, 8
Clacton, 1
Colchester, 2, 3, 30, 31
Felixstowe, 9
Halesworth, 7
Halstead,
Harwich, 18
Ipswich, 16, 17
†*Maldon, 24
Saxmundham,
Stowmarket, 25
Sudbury, 23
Woodbridge,

Circuit 34-Middlesex
His Hon. Judge Tudor Rees
His Hon. Judge Done (Add.)
Uxbridge, 1, 8, 29

Circuit 35 — Cambridgeshire
His Hon. Judge Campbell
Biggleswade, 1
Bishops Stortford,
*Cambridge, 4 (R.B.), 16 (J.S.) (B.), 17
Ely, 14
Hitchin, 7
*Huntingdon, 10
Luton, 3 (J.S.) (B.), 4, 17 (R.B.)
March,
Newmarket, 18
*Oundle,
Peterborough, 4 (R.), 8, 9
Royston, 11
Saffron Walden,
Thrapston, 2
Wisbech, 15

Circuit 36—Berkshire
His Hon. Judge Hurst
*Aylesbury, 4, 18 (R.B.)
Buckingham, 29
Cheltenham, 8, 15
Henley-on-Thames,
High Wycombe, 3
Northleach, 14
Oxford, 7, 14 (R.B.), 31
Reading, 3 (R.B.), 9, 10, 11
Tewkesbury, 23
Thame,
Wallingford, 28
Wantage, 1
Witney, 2

Circuit 37-Middlesex
His Hon. Judge Sir Gerald Hargreaves
Chesham, 1
*St. Albans, 15
West London, 1, 2, 7, 8, 9, 14, 15, 16, 28, 29, 30

Circuit 38-Middlesex
His Hon. Judge Alchin
Barnet, 1, 15, 29
*Edmonton, 3, 4, 8, 10, 11, 17, 31
Hertford, 2
Watford, 9, 16, 30

Circuit 39-Middlesex
His Hon. Judge Engelbach
His Hon. Judge Tudor Rees (Add.)
Shoreditch, 3, 4, 7, 8, 10, 11, 14, 15, 17, 28, 29, 31
Windsor, 2, 9, 16, 23, 30

Circuit 40-Middlesex
His Hon. Judge Jardine, K.C.
His Hon. Judge Drucquer (Add.)
His Hon. Judge Tudor Rees (Add.)
Bow, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 28, 29, 30, 31

Circuit 41-Middlesex
His Hon. Judge Earengey, K.C.
His Hon. Judge Trevor Hunter, K.C. (Add.)
Clerkenwell, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 28, 29, 30, 31

Circuit 42-Middlesex
His Hon. Judge Collingwood
His Hon. Judge David Davies, K.C.
Bloomsbury, 1, 2, 3, 4, 8, 9, 10, 11, 15, 16, 17, 31

Circuit 44-Middlesex
His Hon. Judge Austin Jones
His Hon. Judge Davies, K.C. (Add.)
Westminster, 1, 2, 3, 4, 7, 8, 9, 10, 11, 14, 15, 16, 17, 30, 31

Circuit 45—Surrey
His Hon. Judge Hancock, M.C.
His Hon. Judge Hurst (Add.)
*Kingston, 1, 8, 15, 29
*Wandsworth, 2, 3, 7, 9, 10, 14, 16, 17, 28, 30, 31

Circuit 46-Middlesex
His Hon. Judge Drucquer
Brentford, 3, 7, 10, 14, 17, 31
*Willesden, 1, 2, 4, 8, 9, 11, 15, 16, 18, 30

Circuit 47—Kent
His Hon. Judge Wells
His Hon. Judge Hurst (Add.)
Woolwich, 9, 16

Circuit 48—Surrey
His Hon. Judge Konstam, C.B.E., K.C.
His Hon. Judge Bensley Wells (Add.)
Dorking, 10
Epsom, 2, 9, 30
*Guildford, 3, 17
Horsham, 31
Lambeth, 1, 2, 4, 7, 8, 11, 14, 15, 28, 29, 31
Redhill, 16

Circuit 49—Kent
His Hon. Judge Clements
Ashford, 7
*Canterbury, 8
Cranbrook,
Deal, 4
*Dover,
Folkestone, 1
Hythe, 18
*Maidstone, 11
Margate, 3
*Ramsgate,
†*Rochester, 9, 10
Sheerness, 17
Sittingbourne, 15
Tenterden, 16

Circuit 50—Sussex
His Hon. Judge Archer, K.C.
Arundel, 4
Brighton, 3, 10, 11, 31
†*Chichester, 18
*Eastbourne, 9
*Hastings, 15
Haywards Heath,
*Lewes, 7
Petworth,
Worthing, 1

Circuit 51 — Hampshire
His Hon. Judge Topham, K.C.
Aldershot,
Basingstoke, 9
Bishops Waltham,
Farnham, 11
*Newport,
Petersfield, 18
†*Portsmouth, 7 (B.), 10, 17
Romsey,
Ryde, 30
†*Southampton, 8, 9 (B.), 15
*Winchester, 16

Circuit 52—Wiltshire
His Hon. Judge Jenkins, K.C.
*Bath, 10 (B.), 17 (B.)
Calne,
Chippenham, 15 (R.)
Cirencester, 3
Devizes, 14 (R.)
Dursley,
*Frome, 9 (R.)
Hungerford, 8
Malmesbury, 24
Marlborough,
Melksham, 11
*Newbury, 14 (R.)
Stroud, 1
*Swindon, 9, 16 (B.)
Trowbridge, 4
Warminster,
Wincanton, 11 (R.)

Circuit 54-Somersetshire
His Hon. Judge Wethered
†*Bridgwater, 4
†*Bristol, 7 (J.S.), 8, 9, 10, 11 (B.), 16, 17, 18 (B.), 28
Gloucester, 14, 15
Minehead, 15 (R.)
Newent, 16 (R.)
Newnham, 9 (R.)
Thornbury,
*Wells, 1
Weston-super-Mare, 2

Circuit 55 — Dorsetshire
His Hon. Judge Cave, K.C.
Andover, 9 (R.)
Blandford, 1
*Bournemouth, 3 (R.), 11 (J.S.), 15, 16
Bridport, 29
Crewkerne, 8 (R.)
*Dorchester, 4
Lymington,
*Poole, 9, 23 (R.)
Ringwood,
*Salisbury, 3
Shaftesbury, 7
Swanage,
*Weymouth, 1
Wimborne,
*Yeovil, 10

Circuit 56—Kent
His Hon. Judge Sir Gerald Hurst, K.C.
Bromley, 8, 9, 30
*Croydon, 1, 2, 16, 28, 29
Dartford, 3, 17
East Grinstead, 15
Gravesend, 14
Sevenoaks, 7
Tonbridge, 10
Tunbridge Wells, 31

Circuit 57-Devonshire
His Hon. Judge Thesiger
Axminster, 14 (R.)
†*Barnstaple, 29
Bideford, 30
Chard, 17 (R.)
†*Exeter, 10, 11
Honiton, 14
Langport, 28
Newton Abbot, 17
Okehampton, 18
South Molton,
Taunton, 7
Tiverton, 16
*Torquay, 8, 9
Torrington,
Totnes,
Wellington, 14 (R.)

Circuit 58—Essex
His Hon. Judge Trevor Hunter, K.C.
Brentwood, 11 (R.)
Gray's Thurrock, 15 (R.)
Ilford, 1, 7 (R.), 8, 14 (R.), 28 (R.), 29
Southend, 16 (R.B.), 17 (R.), 18, 30 (R.)

Circuit 59—Cornwall
His Hon. Judge Armstrong
Bodmin, 1 (R.)
Camelford,
Falmouth, 14 (R.)
Helston, 1
Holsworthy,
Kingsbridge, 25 (R.)
Launceston, 7
Liskeard, 10
Newquay,
†*Penzance, 9
Plymouth, 9 (R.), 15, 16, 17, 18
Redruth, 3
St. Austell, 8
Tavistock, 11
†*Truro, 4

The Mayor's & City of London Court
The Mayor's & City of London Court
His Hon. Judge Dodson
His Hon. Judge Beazley
His Hon. Judge Thomas
His Hon. Judge McClure
Guildhall, 1, 2 (A.), 3, 4 (J.S.), 7, 8, 9 (A.), 10, 11 (J.S.), 14, 15, 16, 28, 29, 30 (A.), 31

* = Bankruptcy Court
† = Admiralty Court
(R.) = Registrar
(J.S.) = Judgment Summonses
(B.) = Bankruptcy
(R.B.) = Registrar in Bankruptcy
(Add.) = Additional Judge
(A.) = Admiralty

or allowing the premises to be used for an immoral or illegal purpose," now to be found in para. (*b*) of Sched. I to the 1933 Act, which so exasperated Scrutton, L.J., in *Schneiders & Sons* v. *Abrahams* [1925] 1 K.B. 301 (C.A.). Nor is Parliament asked to elucidate the " lawfully sub-let " at s. 15 (3) of the 1920 Act.

Perhaps the most important proposals made are those relating to the registering of rents and the increase or reduction of recoverable rent by awards of *ad hoc* local tribunals, which (p. 50) should not be specifically legal or professional bodies, but should be composed of persons of experience in public affairs, and which are to determine the fair rent by (para. 35) the value which the tenant derives from the tenancy. Of course, the present standard rent system has proved to be unfair largely because enemy action has been not only indiscriminate in point of place but spasmodic in point of time. When, as is stated in para. 16, precisely similar houses have widely different standard rents because they happen to have been let at different dates, this is mostly in turn due to the fact that one was first let during but the other some time after a period of intense air-raid activity.

The functions of the new tribunals are, it is first stated, to be confined to the fixing of rents: they are not to supplant the courts where questions of the recovery of possession " or otherwise " are concerned, and the committee regard it as of the utmost importance that in general mutual rights and obligations of citizens should be decided by the regular and permanent courts of law. Thus para. 44; but I think that para. 60 should be read next by the practitioner, for there it is suggested not only that rent-adjusting awards should take effect, in the case of a contractual tenancy, at the earliest date on which the tenancy could be terminated, but also that if the period of the tenancy is disputed the tribunal should decide the date from which the award is to apply. If this means that the tribunal must determine questions of length of notice to quit, and not merely make its own decision because there is a dispute, the comment may well be made that experience in public affairs insufficiently qualifies for such a task. Much the same applies to the increase a tribunal is to be entitled to award on the ground of a rise in the cost of services: in para. 81 the committee speaks of " rents which include a charge . . . for services provided and maintained by the landlord," para. 19 of the summary describes these as " services the landlord is under contract to provide," which suggests that the committee have in mind abolishing the distinctions drawn in *Wilkes* v. *Goodwin* [1923] 2 K.B. 86 (C.A.) and other " separate payment " cases.

No one will be surprised to learn that strong representations were made to the committee about the present tendency of the courts to deal leniently with rent defaulters (para. 93), but the committee does not recommend modifying the discretion now vested in the courts (by s. 5 (2) of the 1920 Act). It might have been added that limits have been set to a similar discretion by a Divisional Court in *Sheffield Corporation* v. *Luxford* [1929] 2 K.B. 180, and there is no reason why aggrieved landlords should not seek the assistance of higher tribunals in cases governed by s. 5 (2) just mentioned.

In dealing with proposals to amend the grounds for possession, the committee recommend (para. 90) that it should be made clear that " purchasing " in the provision limiting the rights of landlords who have become such since the outbreak of war includes " taking a lease." The conflict about this was reviewed in the " Notebook " on 3rd February last (89 SOL. J. 53).

The " Miscellaneous " recommendations include, besides the suggestions for improved draftsmanship already referred to, proposals to make the offer of a premium illegal, and to make payment to or (in effect) *via* a third party illegal. The first of these points was discussed in the " Notebook " of 17th March last (" Key Money ") (89 SOL. J. 126); the committee have not made any recommendation about premiums for assigning contractual tenancies which were mentioned in that article.

It is not surprising to find that the committee's attention was drawn to *Neale* v. *Del Soto* [1945] 1 K.B. 144 (C.A.), decided on 8th December last, in which it was held that a letting of two rooms with the use in common with the landlord of kitchen, garage, bathroom, etc., was not protected (see 89 SOL. J. 130). Paragraph 111, a fairly long one, is devoted to this subject and the cautious recommendation is that " *if* this interpretation of the law is correct, a provision should be included in the new Act to make this clear."

TO-DAY AND YESTERDAY

LEGAL CALENDAR

April 30.—On the 30th April, 1596, Sir John Puckering, Lord Keeper of the Great Seal, died of apoplexy after four years in office. He was buried in St. Paul's Chapel in Westminster Abbey where his widow erected a costly monument. He left a large fortune amassed by professional industry and the favour of Queen Elizabeth, with whom he was a great favourite. As Lord Keeper he presided in only one Parliament. His opening speech is notable for the observation that there were so many new statutes that " rather than to burden the subjects with more, to their grievance, it were fitting an abridgment were made of those there are already."

May 1.—Amid the discontents of the troubled years, which followed the Napoleonic wars, any social upheaval seemed possible, even the desperate revolutionary enterprise of Arthur Thistlewood, a former officer in a line regiment, who, with a little band of extremists, concocted a plot, which finally took the shape of a plan to murder the entire Cabinet as they sat at dinner at Lord Harrowby's house, 39, Grosvenor Square, to raise the populace, capture the Bank of England and the Tower of London and overthrow the established order. The scheme was betrayed from within and the police burst in on the conspirators just as they were arming themselves in a loft in Cato Street near the Edgware Road. In a fierce scuffle nine of them were captured. Thistlewood got away only to be taken next day. On the 1st May, 1820, he and four of his followers, convicted of high treason, were hanged at the Old Bailey and their heads were afterwards cut off. In connection with this a curious incident occurred. A detachment of Guards was stationed in Newgate Prison in case of disturbances and the officers breakfasted with the Governor. During the meal a servant came in and whispered something to him, to which he replied: " You may take it, but you cannot expect me to use it again." The servant then took from the sideboard the largest carving knife, which the executioner required to complete the task.

May 2.—To the Board of the Green Cloth belonged the sole right of arresting within the limits and jurisdiction of the King's Palace. Thus when the Countess of Dorset wished to arrest a person named Kirk who had sought shelter within its precincts she applied to the Board for permission, and this was granted on the 2nd May, 1684.

May 3.—On the 3rd May, 1909, the trial of Oscar Slater, a German Jew, opened in the High Court of Justiciary at Edinburgh. He was accused of murdering Miss Marion Gilchrist, an old lady of eighty-three, who led a solitary life in a comfortable Glasgow flat, specially reinforced against robbers, of whom she was morbidly afraid, no doubt on account of the £3,000 worth of jewels hidden in her wardrobe. She had been found battered to death in her dining-room. Her maid Helen Lambie had been out buying an evening paper at the time and returned along with the occupant of the flat below, who had been alarmed by a noise. At the same time a man, whom the neighbour took to be a visitor, went out and, on reaching the landing rushed downstairs. Afterwards the body was found. Though the maid said a diamond brooch was missing, the only things obviously tampered with were Miss Gilchrist's private papers. The

police followed a trail which caused them to have Slater arrested in New York whither he had just sailed. In very unsatisfactory fashion the maid purported to identify him as the man she had seen in the flat. Slater was convicted and condemned to death, but very many people believed in his innocence and the sentence was commuted. For years the authorities were pressed to reopen the case. The clue that had first set the police on the track of Slater was found to have been falacious. There was some indication that on the night of the crime the maid had named a man, known to her, as the murderer she had seen. The evidence of his innocence became overwhelming, but it was not till 1928 that his appeal was heard in the High Court of Justiciary and the conviction quashed.

May 4.—John Hartley and Thomas Reeves were hanged at Tyburn on the 4th May, 1722, for robbing a journeyman tailor in the fields near Harrow. Finding he had only 2d. in money they took his clothes, beat him and tied him to a tree. After he was rescued he told the story in an alehouse, and a fiddler who heard him describe the clothes he had lost happened to see the robbers next day in Fore Street, offering his coat for sale. Pretending to be a buyer but to be obliged to fetch the money, he brought the tailor and the men were arrested. Hartley caused six young women in white to go to St. James's and petition the King on his behalf, saying that if he were pardoned they would draw lots which should marry him, but mercy was refused. Reeves, on the way to the gallows, told the chaplain his wife was a worthy woman, whose first husband having been hanged; he married her so that she might not reproach him by a repetition of his virtues.

May 5.—On the 5th May, 1804, "a verdict went against Mr. Cromwell, brewer, of Hammersmith, in the Court of King's Bench for causing a man to be put into the cold damp cage of that place at Christmas time and there kept two nights on an unfounded charge of felony—Damages £150 and costs."

May 6.—On the 6th May, 1893, Sir Frank Lockwood wrote to his daughter Lucy: "I dined last night with the Benchers of the Middle Temple, of whom the Prince of Wales is one . . . I had some talk with the Prince after dinner as to the guests we are going to ask to meet the Duke of York at Lincoln's Inn. We have just made him a Bencher. I was rather amused by the students in the Hall who, when the band played 'Mrs. 'Enery 'Awkins' sang the chorus in honour of Sir Henry Hawkins, who was at the dinner. I don't think he knew the song, but he looked rather puzzled as his name was lifted up in a mighty chorus of many voices."

THE CHINESE OATH.

In Mr. Dunne's court at Bow Street recently when a Chinese witness was to be sworn the usher promptly produced a candle, lit it, and administered the oath in the form: "I tell the truth, and the whole truth. If not, as this candle is blown out may my soul be blown out like it." The magistrate observed that he thought the ritual involved breaking a saucer, but the usher replied: "Yes, sir, but we haven't got any saucers." Sir Harold Morris, K.C., had a story of a Chinaman who, on being asked how he would be sworn, replied: "Killum cock, breakum plate, smellum book, allee same." Equally indifferent was the distinguished Chinaman who was to appear as a witness and whose solicitor, to provide against all eventualities, had a cockerel and a good China plate ready in the corridor. At the last minute he asked him how he would be sworn and received the reply: "We Balliol men always affirm." Not very long ago two little Chinese seamen from Ningpo took the oath in yet another manner at the Old Bailey. Kneeling in the dock, they said: "I swear to the God of Heaven and the God of Hell that if I do not tell the truth may I be struck by the Thunder God of the skies and sent to my death"—at which words it is proper to point at the floor. The first started to give evidence while still on his knees, till Cassels, J., told him to stand up.

UNIVERSITY CORRESPONDENCE COLLEGE LAW CLUB

DEBATE ON LAW REPORTING

A meeting of the University Correspondence College Law Club was held on 16th April at the University of London Club, 19 and 21, Gower Street, when the Director of Law Studies (Mr. Grant-Bailey) gave an address on the topic of law reporting, and a number of professional law reporters gave their views upon the matter from their own angles. The chair was taken by the President of the Club, the Right Hon. Lord Porter.

Mr. S. N. GRANT-BAILEY began by remarking on the great value of accurate and efficient law reporting in our system, of case law and precedent. Law reporting might be dated back in one form or another to 1283, though the theory of binding precedent did not become really established and fully developed until the nineteenth century. As to Chancery, however, it was not until the end of the seventeenth century that there were good reports, whereupon something in the nature of precedent made its appearance in Equity. The first reports of real value in Chancery began in 1695, continuing until 1736, but were not published until 1740. There are more than 500 series of English reports.

The series of private "general" reports might be said to have started in 1822 with the *Law Journal*; *The Jurist* started in 1837, and ended in 1867; *The Law Times* started the publication of reports in 1843, and *The Weekly Reporter* in 1852, united in 1906 with the already established *Solicitors' Journal*. In 1863 the Council of Law Reporting began its work, and was incorporated under the Companies Acts in 1870. This body published a wide series of reports, the governing committee was entirely voluntary and representative of the profession. The whole purpose was to provide sound reports by private enterprise; the profit-making element present only so far as necessary to make them self-supporting. The series of private reports has been increased by the appearanee, in 1884, of the "Times Law Reports" and, in 1936, of the "All England Reports."

Various complaints were sometimes made as to the nature of the law reports, but it would appear that, taking the matter by and large, the present system was as satisfactory and as efficient as one could be. The functio nof the law reporter was a most skilled and difficult one. Imagine the task of the reporter in the House of Lords, with five lords of the highest ability, each reaching the same goal but by a separate route. It was the function of the law reporter to determine the principle which was established by a judgment and to put it in the form of the headnote. In 1939 a committee was set up by the Lord Chancellor to inquire into law reporting. That committee, presided over by (as he then was) Simonds, J., was unanimous in holding that it was undesirable to establish anything in the nature of a system of monopoly or licensing whereby there would be one series of reports licensed by the Government and all other reporting excluded. It was obvious how perilous would be the position if such a system of licensing were established. In time of crisis the Government could easily prohibit the reporting of inconvenient decisions. It was only for a very short time in English history that there had been any effort to control the reports of decisions of the courts. That was by a statute of Charles II in 1662. It appeared to have been observed only for a very short time though it was paid the compliment of having the words "Published by authority" on the fly sheet of various reports.

The present system of a series of general and special reports seemed to be the most useful and convenient method that could be devised. It was a pity that means were not provided for the more extensive circulation of law reports. Their more extended purchase would enable those who produced them to have more adequate funds, and thereby to cover the field more widely. It was a little startling to think that a very large bulk of common law cases in this country were now decided on assize. There was no organisation for reporting these common law cases, and yet there was no difference between a case decided on circuit and a case decided in London. In cases which went to the Court of Appeal and the House of Lords different questions arose, but in the main in the cases which reached those tribunals some important question of principle was involved. It was suggested by the dissentient to the report of the Law Reporting Committee that a system of reporting should be set up whereby every judgment given in any court of record should be fully reported and transcribed. That would be a deplorable multiplication of paper. As it was, at the present time there was far too much quotation of authority.

The Authority of the Judge

Mr. Roland Burrows, K.C., who declared that he had no right to be called a law reporter as he was merely the consulting editor of a series and had never reported a single case, said that his views on law reporting were the same as those of the ordinary practitioner who wished to get at the point and cursed the fact that there were so many cases which were of no use to him. The system of law reporting was inevitably coupled with the authority of the judge. Where the judge had the right to pronounce what the law was, it was essential that there should be available for the use of the public the pronouncements of judges. The fact that such pronouncements necessarily tended to be a discussion of the facts of a particular case, while it had its advantages, had, of course, the drawback of the amount of irrelevant matter to be examined. In a case which had gone through two courts already and on which four judges had already pronounced, each starting with a statement of the facts, one might find in the House of Lords each law lord doing the same thing so that the unfortunate practitioner who had to read them all was inclined to lay a malediction on both Houses.

There were two points of view, Mr. Burrows continued, concerning law reports. One was the academic point of view that cases should be reported only if they laid down or developed principles of law; the other was the point of view that cases should be reported in order to assist the practitioner's understanding of the current application of the law, and between those two points of view there was always a contest. If cases were reported on the mere ground that they were interesting, it meant following on the lines of the popular newspaper, good in its way, but not of much use from the point of view of the law. The principle underlying a case was the important thing, but the application of the principle to the actual facts was also extremely important, and both must be borne in mind. *Prima facie*, law reports were for the benefit of the practitioner. Indeed, they might be called, to quote Lord Birkenhead, the working tools of the practising lawyer. If any old standard series of reports were taken from the shelves it would be found that five out of six cases were absolutely useless now, because they turned upon points of procedure which, while of importance to the practitioner of those days, were of no practical importance to the practitioner of to-day. That showed that the old reporters had current practical needs in mind.

Who are the Law Reporters?

Mr. Colin Clayton said that the law reporters with whom he had to deal had all been a willing and industrious body of men. Notwithstanding their avocation they were still human beings. Some years ago a judge criticized somebody's report, whereupon the reporter concerned rushed off to see the judge, to be told by his lordship that he had had no idea that there was any personality behind the reports. Eve, J., when asked how he approached a case, said that he first looked at the counsel engaged, and if he did not know them he looked at the solicitors; if he did not know them either, then he listened to the facts! But no one had ever suggested that the judge should look at the law reporter. Law reporters were like artists. No two law reports of the same case were the same if done by different people. On one occasion a law reporter magnified his office, like the one in the Court of Criminal Appeal who said that he knew that the Lord Chief Justice was wrong in his law, and accordingly put him right.

To any who had the ambition to be a law reporter he recalled the saying of Napoleon, that every soldier had a field marshal's baton in his knapsack. It might be said that every law reporter had a judge's wig in his note case. Lord Blackburn (1813–96), who was one of the best known judges in the House of Lords, began as a law reporter; he edited the eight volumes of the Ellis and Blackburn reports, but on his appointment to a judgeship *The Times* inquired, "Who is Mr. Blackburn?" Law reporters were individual people; there was no type. They might confabulate together, but

> "The sins we do by two and two,
> We pay for one by one."

Many members of the Bar had begun their career as law reporters, and he thought it was justifiable to say that law reporting was an important branch of our legal system. The reporter should be caught young, he should be intelligent, and not so much concerned with facts as with law. It had been said that anybody of normal intelligence could interpret an Act of Parliament, but it required a very good judge to determine a question of fact. He should have a logical mind and be able to reproduce counsel's arguments, or, if he could not do that, he should have the physical energy to rush round to counsel's chambers and get them to do it for him.

He had often thought how difficult it must be to sit on the bench and give an extempore judgment in a long and difficult case. How unlikely that there would be forthcoming the polished periods seen in a reserved judgment. But picture the budding reporter when he first picked up an extempore judgment. He must set out to make an artistic picture. He must reproduce the judgment in good English, be lucid and yet able to condense in such a way as to bring out the relevant facts and issues. The reader who glanced casually through the report could have little idea of the toil and sweat which went into the headnote alone. Then there was the labour of referencing and checking. Blessed be the judge who never quoted unnecessarily and always quoted accurately! The final report should be a kind of crystal through which the light of justice shone clearly and steadily. He was reminded of a remark of Theobald Mathew that the lunch room at the courts was full of busy reporters explaining to each other with great eagerness why the particular case on which each was engaged was not reportable. Seriously, law reporters were unobtrusive people, living quiet lives, but they lived on in their records, a not unworthy memorial of their work.

Mr. F. H. Cowper described the mechanics of law reporting in the highest tribunal of all, where the lonely reporter was conscious that every word, or almost every word, was of value to the profession and should be recorded. In spite of *The Times* reporter who "put the Lord Chief Justice right," the functions of the law reporter were, so far as the speeches were concerned, really editorial. He spoke of the difficulties of constructing the headnote, when the lords had reached the same conclusion, or perhaps differing conclusions, but by different routes, and of collating the facts on which they relied individually to form a single coherent narrative. Most laborious was the reproduction of the arguments of counsel. Even if one read them in the shorthand note, they were sometimes so broken as to be unintelligible. In such cases it was hard to understand how the learned lords could deliver any judgment at all on the arguments as addressed to them.

(To be concluded)

CIRCUIT OF JUDGES

SUMMER ASSIZES.

South-Eastern.—Croom-Johnson, J.: Huntingdon, 14th May; Cambridge, 16th May; *Bury St. Edmunds, 23rd May; *Norwich, 30th May; Chelmsford, 8th June. Cassels, J.: Hertford, 16th June; Maidstone, 21st June; Kingston, 28th June; *Lewes, 5th July.

North and South Wales.—Lewis, J.: Newtown, 5th May; Dolgelley, 9th May; *Caernarvon, 11th May; Beaumaris, 17th May; Ruthin, 22nd May; Mold, 29th May. Singleton and Lewis, JJ.: *Chester, 4th June. Singleton, J.: Presteign, 14th June; Brecon, 16th June; Lampeter, 20th June; Haverfordwest, 23rd June; *Carmarthen, 27th June. Lord Merriman, P., and Singleton and Lewis, JJ.: *Swansea, 4th July.

Western.—Hilbery, J.: Salisbury, 22nd May; Dorchester, 28th May; Wells, 31st May; *Bodmin, 5th June. Hilbery and Lynskey, JJ.: *Exeter, 14th June; *Bristol, 26th June. Hilbery, Henn-Collins and Lynskey, JJ.: *Winchester, 9th July.

Northern.—Tucker, J.: Appleby, 18th May; *Carlisle, 22nd May; Lancaster, 28th May. Tucker, Hodson and Oliver, JJ.: *Liverpool, 4th June; *Manchester, 2nd July.

Oxford.—Charles, J.: Reading, 7th May; Oxford, 12th May; Worcester, 17th May; *Gloucester, 24th May; *Newport, 4th June; Hereford, 14th June; *Shrewsbury, 19th June. Charles and Stable, JJ.: Stafford, 28th June. Humphreys, Stable and Barnard, JJ.: *Birmingham, 10th July.

Midland.—Macnaghten, J.: Aylesbury, 5th May; Bedford, 10th May; Northampton, 21st May; *Leicester, 28th May; Oakham, 6th June; *Lincoln, 7th June; *Derby, 18th June; *Nottingham, 27th June. Humphreys, J.: Warwick, 4th July; Humphreys, Stable and Barnard, JJ.: *Birmingham, 10th July.

North-Eastern.—Asquith and Hallett, JJ: *Newcastle, 29th May; *Durham, 11th June; *York, 25th June. Bucknill, Asquith and Hallett, JJ.: *Leeds, 2nd July.

The Lord Chief Justice, Atkinson, J., Wrottesley, J., and Birkett, J., will remain in town.

* Divorce Business taken at these towns.

COMMON LAW COMMENTARY

DEDUCTIONS FROM WAGES UNDER THE TRUCK ACT, 1896

Section 1 of the Act (59 & 60 Vict. c. 44) enacts that an employer shall not contract with a workman or shop assistant for deductions from wages "for or in respect of a fine," or for payment of fines, unless (*a*) the terms of the contract are set out in a displayed notice or signed by the workman, (*b*) the contract gives particulars of the offences and the fines, (*c*) the fineable act is likely to cause loss to the employer or hindrance to the business, and (*d*) the amount of the fine is fair. When a fine is actually imposed, particulars of it and of the offence must be given in writing to the workman. The penalty for disobeying the Act is a fine of up to £10 for the first offence, £10 to £20 for the second, and up to £100 for the third. The fine may be recovered within six months.

In *Bird* v. *British Celanese, Ltd.* (1945), 61 T.L.R. 316, the defendants contended that it was a term of the contract under which they employed the plaintiff that he would be bound by the regulations, customs, practices or usages of the factory, one of which was that a workman might be temporarily suspended for misconduct, and that his trade union had agreed to this right to suspend. The plaintiff was suspended for two days for refusing to clean a machine, and claimed loss of wages.

The question before the Court of Appeal was whether the Act applied. If so, the stoppage of pay would have been illegal, as at least (*a*) above had not been complied with. It was assumed that the order to clean the machine was a proper one and that the contract of employment gave a right to suspend.

Scott, L.J., held that the prohibited contractual stipulations were limited by the words "for or in respect of a fine," and that (apart from payments by a workman out of his own pocket, which did not come into the picture) "deduction" from wages was different from a suspension, which might be a "merciful substitute for dismissal and a possible re-engagement . . . You cannot deduct something from nothing." There were no wages from which to deduct. The natural meaning of "suspend" is that "the workman ceases to be under any present duty to work and the employer ceases to be under any consequential duty to pay."

CORRESPONDENCE

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL]

Defence Costs

Sir,—It is a well-settled principle of English law that a successful litigant, be he plaintiff or defendant, is entitled to obtain his costs from the unsuccessful party. It therefore appears to me to be illogical and against the usual practice that when a defendant who is acquitted in certain cases brought in the magistrates' courts and his solicitor or counsel applies for costs against the prosecution that they are very often disallowed. Seemingly the basis upon which they are refused is that there were reasonable grounds for the bringing of the case into court. This does not, in my humble opinion, justify a denial to the defendant of the costs he has incurred in defending himself. It may very well be said that in any case whether it be civil or criminal, there is reasonable ground for taking proceedings and to argue that because there was a glimmer of reason for taking action that that fact alone should disentitle a successful party to his costs seems out of accord with the general rule. I venture to suggest that *a fortiori* when a defendant in police court proceedings of the kind I have in mind obtains a verdict in his favour he should be entitled as of right to the reimbursement of the expense to which he has been put in defending his character and reputation. To hold otherwise is, to my mind, inequitable and against the conscience of the laws which have been evolved for the protection of one's rights.

Newcastle on Tyne. S. MICKLER.
24th April.

Judge H. M. Sturges has tendered his resignation of the Recordership of Windsor.

OBITUARY

MR. J. C. GAIT

Mr. John Clarke Gait, for many years a partner of Messrs. Biddle, Thorne, Welsford and Gait, then of 22, Aldermanbury, E.C.2, died on Tuesday, 17th April, aged seventy-three.

MR. H. F. GALPIN

Mr. Henry Frank Galpin, solicitor, of Oxford, died on Thursday, 26th April, aged sixty-one. He was also Coroner for the City of Oxford, and was admitted in 1906.

MR. J. M. MASON

Mr. John Millard Mason, solicitor, of Messrs. Nelson, Mason and Steele, of Kidsgrove, Staffs, died on Saturday, 7th April, aged fifty-three. He was admitted in 1915.

MR. A. R. OLDFIELD

Mr. Albert Reginald Oldfield, solicitor, of Messrs. Pimblott and Oldfield, solicitors, of Macclesfield, died on Saturday, 7th April, aged fifty-two. He was admitted in 1923.

MR. G. H. SELDON

Mr. Gerald Hole Seldon, solicitor, of Messrs. Kingdon and Seldon, solicitors, of Basingstoke, died on Friday, 13th April. He was admitted in 1929.

MR. R. T. G. WRIGHT

Mr. Reginald Thomas George Wright, solicitor, of Leicester, died recently, aged fifty-six. He was admitted in 1913.

APPOINTMENT OF "NEXT FRIEND"

Bath Law Society: Mr. Philip Rogers, 1, Queen Square, Bath.

Pontypridd Rhondda and District Law Society: Mr. D. Merlin Phillips, Church Street Chambers, Pontypridd, Glam.

CITY OF LONDON SOLICITORS' COMPANY

The first court dinner since the grant of the livery to the Company was held at Tallow Chandlers' Hall on Tuesday, 24th April with the Master (Mr. L. C. Bullock) in the chair, supported by the Senior Warden (Mr. Deputy H. A. Easton, C.C.) and the Junior Warden (Mr. W. A. Bright). The members of the court and their ladies and the Master and Clerk of the Tallow Chandlers' Company were the Master's guests.

In the course of the dinner the Master presented to the Company a very handsome loving cup (1783) to commemorate the grant of the livery and this was filled and circulated amongst the guests. Proposing the health of the Master, Senior Past Master, J. Montague Haslip, J.P. (who was Master in 1924–34, and has been a member of the court since February, 1912), referred to earlier efforts to secure the grant of the livery and congratulated the Master on his success. The Master, in reply, acknowledged the assistance which he had received from several members of the court in his efforts, and expressed the hope that in due course the Company would acquire funds by legacies and otherwise to enable the Company to take its place among the wealthy livery Companies which devoted so much money and care to their charitable and educational activities. The Company was looking forward to being in a position to help solicitors who had practised in the City to re-establish themselves on their demobilisation from the Forces, for which funds would be needed.

THE SOLICITORS' MANAGING CLERKS' ASSOCIATION

The annual general meeting of the above association was held on the 12th April, when Mr. Alfred W. Booth was elected President. The retiring President, Mr. Francis Taylor, in his presidential address, referred to the enemy attack on London by flying bombs and other weapons, and praised the way the council and sub-committees had carried on during this difficult period, and said that the council had met regularly and the committees had met frequently and not one meeting had been missed. He outlined the educational activities of the association during the past year, and referred to the lectures which were being arranged and the other steps which were being taken for the benefit of members returning from His Majesty's Forces, and also referred to a discussion he had had with the President of The Law Society with regard to the remuneration of managing clerks, and called attention to a passage relating to this topic in a recent speech of the President of The Law Society.

A special tribute was paid to the Honorary Secretary, Mr. Murray, and the other officers were also thanked for their services.

NOTES OF CASES

HOUSE OF LORDS

Attorney-General *v.* Gretton

Lord Simon, L.C., Lord Russell of Killowen, Lord Macmillan, Lord Porter and Lord Simonds. 19th April, 1945

Revenue—Estate duty—Annuity bequeathed by will—Validity of will questioned—Annuitant agrees to take lesser annuity—Lesser sum secured by deed—Death of annuitant—Whether annuity granted "for full consideration"—Finance Act, 1894 (57 & 58 *Vict. c.* 30), *s.* 3 (1).

Appeal from the Court of Appeal.

The testator, who died in 1882, bequeathed to R an annuity of £6,000 per annum for her life, free of income tax, and directed his trustees to purchase an annuity for this amount in her name. He gave his residuary estate to his two sisters. The testator was survived by the two sisters named in the will, by a third sister and a brother. They, as his next of kin, threatened to dispute the will. By a deed of compromise of 1883, the next of kin agreed not to dispute the will and the annuitant agreed to accept an annuity of £5,000, free of income tax, in lieu of the annuity of £6,000, and to waive her right to have an annuity purchased for her. Provision was made for a fund within five years to be created to answer the annuity. By a declaration of trust of the 8th June, 1888, Government stock was vested in trustees upon trust to pay the annuity of £5,000, and subject thereto, the stock was to be held as part of the testator's residuary estate. The annuitant died on the 23rd December, 1936, and the Crown claimed duty on the annuity fund under the Finance Act, 1894, s. 2 (1). The respondents, the trustees of the annuity fund, contended that no duty was payable as the case fell within the exemption contained in s. 3 (1) of the Act of 1894 as having been "granted for full consideration in money or money's worth . . . paid to the . . . grantor for his own use or benefit." Macnaghten, J., gave judgment for the Crown. His decision was reversed by the Court of Appeal (Scott and du Parcq, L.JJ., Goddard, L.J., dissenting) on the ground that the provision of s. 3 (1) was satisfied, as the annuity of £5,000 payable under the deeds of 1883 and 1888 was a new annuity granted for full consideration and was not an annuity derived under the will of the testator.

The Crown appealed.

LORD RUSSELL OF KILLOWEN said that the annuity, which ceased on the death of the annuitant, was the annuity bequeathed to her by the will but reduced to £5,000. The appeal should be allowed.

The other noble and learned lords agreed in allowing the appeal.

COUNSEL: *The Attorney-General* (Sir Donald Somervell, K.C.), *J. H. Stamp*; *Cyril King*, K.C.; *Vanneck*.

SOLICITORS: *Solicitor of Inland Revenue*; *Radcliffes & Co.*

[Reported by Miss B. A. BICKNELL Barrister-at-Law.]

COURT OF CRIMINAL APPEAL.

R. *v.* John Canny

Humphreys, Wrottesley and Croom-Johnson, JJ. 26th February, 1945

Criminal law—Right to trial by jury—Judge's misunderstanding of medical report—Right of accused to put forward defence, however absurd.

Appeal against conviction and sentence of eighteen months' imprisonment passed at the Hampshire Assizes by Macnaghten, J., for wounding with intent to do grievous bodily harm.

At the outset of the proceedings in the court below the learned judge said to counsel for the accused, in the hearing of the jury: "Are you resisting a conviction on the charge of wounding? . . . I have read the depositions which make it clear that the woman was wounded, and there is no dispute who inflicted the wound."

HUMPHREYS, J. (delivering the judgment of the court), said that counsel for the appellant had argued that the appellant was really never tried by the jury at all, because the judge, having formed a view owing to his misreading of a medical report, throughout adopted the attitude that the accused was a person who suffered from delusions. If he suffered from delusions to the extent of being insane, he ought to have been found "guilty but insane." But, in fact, the medical report was to the effect that he did not suffer from delusions, but was very unstable, and was to some extent a danger to society because he was likely to get drunk and commit violence and was thoroughly capable of understanding what he was doing. The unfortunate result of the judge's misunderstanding of the certificate was to take away from the jury the right to try this man. In the hearing of the jury the judge said, at the outset of the proceedings, to counsel who was appearing for him: "You cannot resist a conviction here." The judge, most unfortunately, not having in his mind the words of the report of the medical officer, insisted on dealing with the whole matter as one in which the time of the jury had been wasted and as though they had no right to try the case because the appellant was a man who had suffered from delusions. There were many decisions of the court to the effect that a man was entitled to a fair trial by a jury upon any indictable charge and was entitled to make his defence, no matter how absurd it was, to the jury; and it was for them, and not for the judge, to decide when he ought to be stopped. If the jury had been properly directed and if this incident had not happened, the court did not know what the jury would have done, and they could not speculate, but the law of the country was that a man was entitled to take his chance of finding a stupid jury if he could get one to acquit him, and of putting his defence before them. The court was not satisfied that the jury must have convicted the appellant if this unfortunate incident had not occurred. One other matter was that the judge took the view that the defence was so absurd that, upon it being disclosed, the justices were wrong in granting legal aid. The court differed again from the judge in that matter. If the medical report was before the justices, it would be apparent to them that this was a case in which careful inquiry should be made into the medical history and state of mind of the accused. The court could conceive of no better reason for granting legal aid than that. Appeal allowed and conviction quashed.

COUNSEL: *Guy W. Willett*; *W. Maitland Walker*.

SOLICITORS: *Registrar of Court of Criminal Appeal*; *Director of Public Prosecutions*.

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]

PARLIAMENTARY NEWS

ROYAL ASSENT

The following Bills received the Royal Assent, on 25th April:—

COLONIAL DEVELOPMENT AND WELFARE.
ARMY AND AIR FORCE ANNUAL.
MINISTRY OF CIVIL AVIATION.
MINISTRY OF FUEL AND POWER.
STAFFORDSHIRE POTTERIES STIPENDIARY JUSTICE.

HOUSE OF LORDS

CAMP BILL [H.L.].
COMMERCIAL GAS BILL [H.L.].
NEWCASTLE-UPON-TYNE CORPORATION BILL [H.L.].
SOUTH SUBURBAN GAS BILL [H.L.].
Read Second Time. [24th April.
PONTYPOOL GAS BILL [H.L.].
Read First Time. [24th April.

HOUSE OF COMMONS

INCOME TAX BILL [H.C.].
In Committee. [27th April.
LONDON COUNTY COUNCIL (MONEY) BILL [H.C.].
Read Second Time. [24th April.
NATIONAL LOANS BILL [H.C.].

To extend the powers of the Treasury to raise money under s. 1 of National Loans Act, 1939, and to extend the powers of trustees and trustee savings banks to invest in securities issued to them under that Act, moneys received by them in respect of special investments.

Read First Time. [27th April.
MINISTRY OF HEALTH PROVISIONAL ORDER (IRWELL VALLEY WATER BOARD) BILL [H.C.].
Read First Time. [19th April.
WARRINGTON CORPORATION BILL [H.C.].
Read Third Time. [27th April.
WATER BILL [H.C.].
Reported, with Amendments. [26th April.

CORRECTION

In the "Current Topic," entitled "Rent Tribunals," at p. 191 of last week's issue, the word "Rushcliffe" in the first line thereof should have been "Ridley."

The Lord Chancellor has decided that it will shortly be his duty to recommend to His Majesty a list for the appointment of additional King's Counsel. The list will not be made up for some weeks, and this notice is now given in order to provide an opportunity for barristers, including those now serving overseas, who wish to submit their names for consideration, to do so.

NOTES AND NEWS

Honours and Appointments

The King has approved a recommendation of the Home Secretary that Mr. F. C. JOHNSON be appointed Receiver for the Metropolitan District and for the Magistrates' Courts of the Metropolis in succession to Sir John F. Moylan, who retired on 30th April. Mr. Johnson has been doing duty as Receiver since April, 1942, when Sir John Moylan was attached to the Home Office for special duties.

The Lord Chancellor has appointed Mr. W. E. P. DONE, M.C., to be a Judge of County Courts, and has made the following arrangements consequent upon the retirement of Judge Lilley :—

Judge COLLINGWOOD to be Judge of Bloomsbury County Court jointly with Judge DAVID DAVIES, K.C., and Judge DONE to be Judge of Uxbridge County Court jointly with Judge TUDOR REES.

Mr. Done was called by the Inner Temple in 1910.

Notes

THE SOLICITORS' JOURNAL announces that an important article on "Matrimonial Causes proceeding in District Registries" is to be published in the issues of 12th and 19th May. A limited number of additional copies will be available, price 2s. 8d. (post free) for the two issues. Orders for copies should be placed at once.

Mr. M. S. McCorquodale, Joint Parliamentary Secretary to the Ministry of Labour, said at Willesden recently that alterations or modifications of the Essential Work Order would be made directly after V Day, and that the order would be adjusted so that employers, in order to re-employ ex-service people, could discharge others engaged later.

The quarterly meeting of The Lawyers' Prayer Union will be held on Thursday, the 17th May, at 6 p.m., in the Council Room of The Law Society, preceded by half an hour for tea. The speaker on this occasion will be Captain J. C. Metcalfe, whose subject will be "Everlasting Victory." Captain Metcalfe is editor of "The Overcomer" magazine.

According to a note in *The Times*, an umpire appointed under the Reinstatement in Civil Employment Act has decided that a man "granted temporary release on compassionate grounds for the period 6th October to 29th December, 1944," was not on "leave" during this period (or any extension of it) and was entitled to reinstatement in the employment he had before his period of war service began. Liability to be recalled to service at the end of a period of release does not negative the fact (the umpire decides in Case No. 12) that during the period of release he was not on whole time service in the forces.

WAR LEGISLATION

STATUTORY RULES AND ORDERS, 1945

E.P. 420. **Fuel,** General Permit (England and Wales), Restriction of Heating, No. 3, April 21.

E.P. 421. **Fuel,** General Permit (England and Wales), Controlled Premises, No. 4, April 21.

E.P. 414. **Restrictions on Lighting** (G.B.). Order, April 20.

[Any of the above may be obtained from the Publishing Department, S.L.S.S., Ltd., 88/90, Chancery Lane, London, W.C.2]

COURT PAPERS

SUPREME COURT OF JUDICATURE

EASTER SITTINGS, 1945.

HIGH COURT OF JUSTICE—CHANCERY DIVISION

ROTA OF REGISTRARS IN ATTENDANCE ON

		Emergency Rota.	Appeal Court I.	Mr. Justice Uthwatt.
Mon., May	7	Mr. Reader	Mr. Andrews	Mr. Jones
Tues.,	8	Hay	Jones	Reader
Wed.,	9	Farr	Reader	Hay
Thurs.,	10	Blaker	Hay	Farr
Fri.,	11	Andrews	Farr	Blaker
Sat.,	12	Jones	Blaker	Andrews

		Group A.		Group B.	
		Mr. Justice Cohen.	Mr. Justice Vaisey.	Mr. Justice Evershed.	Mr. Justice Romer.
Mon., May	7	Mr. Farr	Mr. Blaker	Mr. Hay	Mr. Reader
Tues.,	8	Blaker	Andrews	Farr	Hay
Wed.,	9	Andrews	Jones	Blaker	Farr
Thurs.,	10	Jones	Reader	Andrews	Blaker
Fri.,	11	Reader	Hay	Jones	Andrews
Sat.,	12	Hay	Farr	Reader	Jones

STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE SECURITIES

Bank Rate (26th October, 1939) 2%

	Div. Months	Middle Price 30th April 1945	Flat Interest Yield £ s. d.	‡ Approximate Yield with redemption £ s. d.
British Government Securities				
Consols 4% 1957 or after	FA	111⅛	3 11 9	2 17 1
Consols 2½%	JAJO	84	2 19 6	—
War Loan 3% 1955–59	AO	103	2 18 3	2 13 0
War Loan 3½% 1952 or after	JD	103⅞	3 7 5	2 18 2
Funding 4% Loan 1960–90	MN	114	3 10 2	2 16 9
Funding 3% Loan 1959–69	AO	100⅜	2 19 6	2 18 7
Funding 2¾% Loan 1952–57	JD	102¼	2 13 9	2 7 11
Funding 2½% Loan 1956–61	AO	98¾	2 10 7	2 11 11
Victory 4% Loan Av. life 18 years	MS	114	3 10 2	2 19 8
Conversion 3½% Loan 1961 or after	AO	106⅛	3 5 10	3 0 0
Conversion 3% Loan 1948–53	MS	102¾	2 18 4	2 0 0
National Defence Loan 3% 1954–58	JJ	103¼	2 18 1	2 11 5
National War Bonds 2½% 1952–54	MS	101	2 9 6	2 7 2
Savings Bonds 3% 1955–65	FA	101½	2 19 1	2 16 6
Savings Bonds 3% 1960–70	MS	100½	2 19 8	2 19 2
Local Loans 3% Stock	JAJO	96½	3 2 2	—
Bank Stock	AO	385½	3 2 3	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	97½	3 1 6	—
Guaranteed 2¾% Stock (Irish Land Act 1903)	JJ	93½	2 18 10	—
Redemption 3% 1986–96	AO	99¾	3 0 2	3 0 9
Sudan 4½% 1939–73 Av. life 16 years	FA	116	3 17 7	3 4 1
Sudan 4% 1974 Red. in part after 1950	MN	111	3 12 1	1 16 6
Tanganyika 4% Guaranteed 1951–71	FA	106½	3 15 1	2 14 1
Lon. Elec. T.F. Corp. 2½% 1950–55	FA	98½	2 10 9	2 13 2
Colonial Securities				
*Australia (Commonw'h) 4% 1955–70	JJ	108	3 14 1	3 1 2
Australia (Commonw'h) 3½% 1964–74	JJ	102	3 3 9	3 2 2
Australia (Commonw'h) 3% 1955–58	AO	100	3 0 0	3 0 0
†Nigeria 4% 1963	AO	114	3 10 2	2 19 8
*Queensland 3½% 1950–70	JJ	103	3 8 0	2 15 5
Southern Rhodesia 3½% 1961–66	JJ	105	3 6 8	3 1 11
Trinidad 3% 1965–70	AO	100	3 0 0	3 0 0
Corporation Stocks				
*Birmingham 3% 1947 or after	JJ	96	3 2 6	—
*Croydon 3% 1940-60	AO	101	2 19 5	—
*Leeds 3¼% 1958–62	JJ	103	3 3 1	2 19 5
*Liverpool 3% 1954–64	MN	100	3 0 0	3 0 0
Liverpool 3¼% Red'mable by agreement with holders or by purchase	JAJO	105½	3 6 4	—
London County 3% Con. Stock after 1920 at option of Corporation	MSJD	96	3 2 6	—
*London County 3½% 1954–59	FA	106	3 6 0	2 14 10
Manchester 3% 1941 or after	FA	95	3 3 2	—
*Manchester 3% 1958–63	AO	101	2 19 5	2 18 2
Met. Water Board 3% "A" 1963–2003	AO	97	3 1 10	3 1 10
Do. do. 3% "B" 1934–2003	MS	99	3 0 7	3 0 11
Do. do. 3% "E" 1953–73	JJ	99½	3 0 4	3 0 6
Middlesex C.C. 3% 1961–66	MS	101	2 19 5	2 18 5
*Newcastle 3% Consolidated 1957	MS	101	2 19 5	2 18 0
Nottingham 3% Irredeemable	MN	95	3 3 2	—
Sheffield Corporation 3½% 1968	JJ	107½	3 5 1	3 0 10
Railway Debenture and Preference Stocks				
Gt. Western Rly. 4% Debenture	JJ	117	3 8 5	—
Gt. Western Rly. 4½% Debenture	JJ	122½	3 13 6	—
Gt. Western Rly. 5% Debenture	JJ	136½	3 13 3	—
Gt. Western Rly. 5% Rent Charge	FA	136½	3 13 3	—
Gt. Western Rly. 5% Cons. G'rteed.	MA	134½	3 14 4	—
Gt. Western Rly. 5% Preference	MA	123½	4 1 0	—

* Not available to Trustees over par.
† Not available to Trustees over 115.
‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertisement Offices : 88-90, Chancery Lane, London, W.C.2. Telephone : Holborn 1403.

Annual Subscription : Inland, £3 ; Overseas, £3 5s. (payable yearly, half-yearly or quarterly in advance). Solicitors in H.M. Forces, special rate, £1 17s. 6d. per annum.

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